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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,064	12/13/2001	Robert Henry Rohrbaugh	8803	9885

27752 7590 08/16/2004

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EXAMINER
BRUNSMAN, DAVID M

ART UNIT	PAPER NUMBER
1755	

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	10/020,064	ROHRBAUGH ET AL.
	Examiner	Art Unit
	David M Brunsman	1755

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☒ A Notice of Appeal was filed on *28 July 2004*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) will not be entered because:

(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attachment*.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *1-12,24 and 25*.

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☒ Other: *note the attached Notice of References cited PTO-892*

David M Brunsman
Primary Examiner
Art Unit: 1755

Applicant's response filed 28 July 2004 has been carefully considered. In summary, the arguments set forth concern whether McCarthy et al disclose coatings containing less than 3 micrograms per square centimeter and whether McCarthy et al disclose said coatings containing less than 4% moisture.

Example 8 of McCarthy discloses coating weight of 11.25 micrograms/cm2. The example does not explicitly set forth if this coating weight is before or after drying. Applicant provides no evidence that this weight is measured after drying and does not point to any portion of the reference suggesting such. The reference suggests the measurement is performed before drying as the measurement step is recited immediately after, as part of the same sentence, the "coatings were made using Meyer drawdown rods...". Furthermore, the here cited Lee et al (paragraph 1 of page 4) and PCI (paragraph 3 of page 3) references suggest one of ordinary skill in the art measures the coating weight of coatings deposited using Meyer drawdown rods after deposition but, before drying. The preponderance of the evidence supports the examiner's finding that the nanoparticles comprise only 16.2% of the 11.25 micrograms/cm2 (i.e. the coating containing 1.8 micrograms/cm2).

Column 4, line 6 of the reference teaches "the coating is dried". Applicant asserts that the disclosure does not suggest a moisture content of less than 4%. The examiner interprets the disclosure relied upon giving the terms used their plain meaning unless otherwise explicitly defined in the context of the reference. As set forth, the plain meaning of "dry" is having no moisture. Applicant has not pointed to context within the reference to the contrary. Applicants "Covema" glossary in unpersuasive. There is no evidence of record to support the webpage relied upon is recognized as authoritative. There is no evidence presented that the reference forms part of the related art. The document appears to be a translation of an Italian language document. The definitions found therein are all to modifications of the

term "dry" or "dried" and fail to set forth the meaning of "dry" or "dried" per se. The preponderance of the evidence remains that the above terms must be construed consistent with their dictionary definition. See, *In re Morris*, 44 USPQ2d 1023, "The fact that appellants can point to definitions or usages that conform to their interpretation does not make the PTO's definition unreasonable when the PTO can point to other sources that support its interpretation."

The additional references provided are cited only to indicate the art recognized meaning of terms and are not relied upon as anticipating or making obvious the instant claims.